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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/633,043

08/01/2003

Mark A. Krull

4703

7590

07/31/2006

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EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/633,043 | Applicant(s) KRULL, MARK A. | |
| | Examiner Jerome W. Donnelly | Art Unit 3764 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

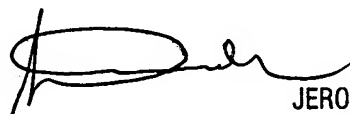
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/1/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Claim 9 recites the limitation "each said body support" in line 2. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7 and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ammoscato et al.

Ammoscato et al discloses a device comprising: a frame adapted to rest on a floor (said floor not necessarily being horizontal), a body support platform (24) first and second dumbbell assemblies, said dumbbells having handles and weight, a base (38, 42), said base being pivotally connected to the frame about a handle (32), as claimed, in claims 1 and 11.

In regard to claims 2, 7 and 12 note that base elements 38, 42 are pivotally connected at element 30 to alter elevation of the base member (38).

In regard to claim 4 note that base 38 is positioned below element (24),

In regard to claim 5 and 9, note that (30, 38) pivots about a common horizontal axis (32).

In regard to claim 6, 14 and 15 note that base members (42, 38) are outwardly pivotal about vertical axis, as shown in fig. 5.

In regard to claim 10, as best understood each base is capable of occupying a similar orientation/common orientation.

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In regard to claim 13, the angle of the floor has not been designated or determined.

In regard to claim 16, two different orientations is so broad so as to read on any orientation.

In regard to claim 17, note the adjustable feature shown in fig. 5.

In regard to claim 18, note element (20).

In regard to claim 19, note platform 24 which is capable of extending parallel to a desired, not necessarily horizontal surface.

In regard to claim 20, note fig. 2.

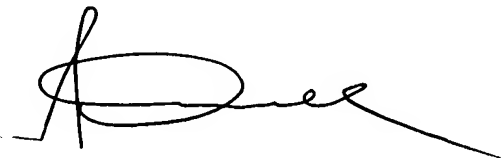
Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ammoscato et al in view of Stevens.

The examiner notes that it would have been obvious to manufacture the seat member, sections both elements 20 and 24 of Ammoscato et al to be angle adjustable in view of the angle adjustable sections of Stevens. Angularly tilting the seat section of Ammoscato et al modified would thereby meet the claim limitations of a second body supporting platform arranged to extend perpendicular to a first body supporting platform.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Jerome Donnelly', with a long horizontal flourish extending to the right.